

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Clerk's Minutes
Before the Honorable David Herrera Urias

CASE NO. CR 19-1631

DATE: 4/24/23

TITLE: *United States v. Jonathan Craft and Pragneshkumar Patel.*

COURTROOM CLERK: J. Faulkner

COURT REPORTER: C. McAlister

COURT IN SESSION: 8:45 A.M. – 1:08 P.M. **TOTAL TIME:** 4 HOURS AND 38 MINUTES

TYPE OF PROCEEDING: JURY TRIAL

Court's Rulings:

- The Court **VACATES** the April 24 – May 5, 2023 jury trial.
- The Court **SETS** a June 14, 2023 evidentiary hearing at 10:00 A.M. on Defendants' fair-cross-section claim.

ATTORNEYS PRESENT FOR PLAINTIFF(S): **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Letitia Simms
Jack Burkhead

Meredith Baker
Robert Gorence
Barry Porter
Jason Bowles

8:45 A.M.: The Court calls the case and conducts a pretrial preliminary hearing with the parties about the case and the Court's general expectations for trial.

The Court denies the motion to limit cross of P.M (Doc. 492). However, the Court expects that when the witness is on the stand, the first few questions will be to learn if there was a benefit.

The Court discusses the joint statement of the case that was presented and tells the parties that it was too long. The Government does not object to an abbreviated joint statement of the case.

9:22: **RECESS**

9:44: The Court is back in session. Mr. Gorence asks that the Court conduct voir dire concerning hardship requests.

The venire enters the courtroom. The Court reads preliminary instructions to the venire.

The parties have a bench conference. Mr. Craft and Mr. Patel move to strike the venire because they argue that the venire does not reflect a cross-section of the community.

The Court excludes the venire, with instructions that the venire return. The Government and Defendants state their reasons for keeping or moving trial.

10:19: **RECESS**

10:58: Court back in session. The Court takes up the issue again of fair-cross representation of a jury pool. The Court tells the parties that it will allow the parties to brief the issue of fair cross representation. Mr. Porter delivers argument, including the argument that there is a systemic exclusion of jurors. Mr. Gorence delivers oral argument. Mr. Gorence states that an evidentiary hearing is needed to see about the Court's procedure to determine how jurors are selected.

11:03: **RECESS**

12:25: The Court is back in session. The Court invites Mr. Porter to begin oral argument on Defendants' fair cross section claim. Mr. Bowles begins oral argument on behalf of Mr. Patel. Defendants ask for an evidentiary hearing on the matter. The Court asks how long Defendants would need to prepare for an evidentiary hearing. Mr. Bowles also asks the record to reflect that there are no African American venire members. The Government does not stipulate to this request.

Mr. Burkhead begins oral argument on behalf of the Government concerning the issue of Defendants' fair cross section claim. Mr. Burkhead states that the Government concedes prong 1 of a fair-cross-section requirement claim (the defendant is part of a distinctive group). The Government disputes prongs 2 and 3 and delivers argument on the issue. Mr. Bowles delivers rebuttal argument. Mr. Porter states that he may need three months to prepare for a hearing because he may need to consult with national experts.

The Court rules that it will vacate trial for the purpose of holding an evidentiary hearing. The Court vacates the trial. The Court states that it will probably set a hearing in a "couple months." The Court proposes September 18 -29 as possible trial date.

Mr. Gorence states that he intends to send the Court a letter in a week to determine what information he needs and how to obtain it.

Ms. Simms states her reason for opposing a continuance. The Court also states that it may propose a July 17 -28 trial date.

The Court sets a June 14, 2023 evidentiary hearing on Defendants' fair-cross-section claim. The hearing will occur at 10:00.

1:08 P.M.: **RECESS**